

PERFORMANCE AGREEMENT

Between

**The Office of Surface Mining
Alton Field Division**

And

**The Missouri Department of Natural Resources
Division of Environmental Quality
Missouri Land Reclamation Program**

July 1, 2005 – June 30, 2006

**Performance Agreement
Between
The Alton Field Division of the Office of Surface Mining
And
The Missouri Department of Natural Resources
Division of Environmental Quality
Land Reclamation Program
EY 2006**

Part I. Purpose

Background: The purpose of this Performance Agreement (PA) is to establish a mutually acceptable scope of work for oversight of specific elements of the approved surface coal mining and reclamation and abandoned mine lands programs administered by the Missouri Land Reclamation Program (MLRP). Further, this agreement provides the mechanism for programmatic and technical support and assistance to the State. The focus of the agreements with the States is to assure that SMCRA requirements are addressed in the development and administration of state laws, regulations and programs. The ongoing oversight process allows timely identification and resolution of program issues, serves to keep the State programs aligned with SMCRA requirements, and serves to identify areas where the Office of Surface Mining (OSM) needs to clarify its implementation expectations.

Objective: The objectives of this Performance Agreement are:

- To foster mutual respect in carrying out the requirements of SMCRA,
- Assure that oversight topics reflect OSM/State priorities,
- Use on the ground results in protecting the environment and public health and safety,
- Provide timely follow through on areas identified as needing program enhancements,
- Encourage State self evaluation of program performance, and
- Provide for State review of oversight or sub-element reports.

Part II. Annual Evaluation Plans

Background: OSM's Directive REG-8 provides a flexible framework for developing and carrying out annual state program evaluations. It provides the flexibility to design an annual oversight plan, which includes oversight topics that reflect the highest priority review areas, assistance needs which are developed with significant input from other interests, including citizens, environmental representatives, interest groups and the coal industry. The directive encourages the States to be involved in developing and carrying out the plan and reporting

on the results. The annual agreement may be modified as issues are resolved, new issues arise, or as work priorities change. Work plans for each review to be conducted will be drafted and agreed to prior to a review beginning.

Part III. National Review Topics

Reg-8 requires the gathering of specific data during the evaluation year. This data, with the exception of reclamation success, will be gathered during oversight inspections. The Alton Field Division (AFD) anticipates conducting reviews of approximately 30 inspectable units during EY 2006. The primary focus of these inspections is to ensure that the provisions of SMCRA are adhered to by the coal mining operations and to obtain an overall picture of the impacts of surface coal mining and reclamation operations, both within the permit boundaries as well as off-site. The focus of these inspections is early identification of trends and prevention of problems. With early identification and prevention, successful and timely reclamation should follow.

A. Off-site Impacts.

The AFD will continue to evaluate and report on the effectiveness of the MLRP in protecting the environment and the public from off-site impacts resulting from surface coal mining operations. The State and OSM will use the definition of off-site impact contained in OSM Directive Reg-8, which is as follows:

For purposes of this directive, an off-site impact is defined as anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on resources (people, land, water, structures). The applicable State program must regulate or control the mining or reclamation activity or result of the activity causing an off-site impact. In addition, the impact on the resource must be substantiated as being related to a mining and reclamation activity and must be outside the area authorized by the permit for conducting mining and reclamation activities.

Additional information describing the evaluation objective, methodology and output measures will be included in a specific work plan that addresses this topic.

B. Reclamation Success.

The AFD will continue to evaluate and report on the effectiveness of the MLRP in ensuring successful and timely reclamation on lands affected by surface coal mining operations. The number of acres at active and surety reclamation sites meeting phased bond release standards, and released by the State, will determine success in each category listed below:

- a. Land form/AOC,

- b. Land capability,
 - c. Hydrologic reclamation, and
 - d. Contemporaneous Reclamation.
- The number of acres released from phase I bond will measure AOC and replacement of required soil.
 - The number of acres released from phase II bond will measure soil and vegetative stability with respect to erosion and the establishment of vegetative cover consistent with the approved post mining land use.
 - The number of acres that have been released from phase III bond release will measure the attainment and establishment of a successful and appropriate vegetative cover, including restoration of productivity. The successful restoration of surface and ground water quality and quantity will be measured by the accounting of acres receiving phase III bond release.

The Bond Forfeiture Release Schedule, and any future modifications, contained in the February 6, 2006, memo from Mike Larsen to Larry Coen of the MLRP, will establish the standard to determine if the State is achieving timely reclamation at bond forfeiture sites.

Additional information describing the evaluation objective, methodology and output measures will be included in a specific work plan that addresses this topic.

C. Customer Service.

In EY 2006, the AFD will evaluate the effectiveness of customer service provided by the State relative to public participation in the State's approved Permanent Program. Public participation in the bond release and liability release processes at active and bond forfeiture sites will be addressed in the review. A mutually agreed upon work plan setting forth the scope and methodology of this evaluation will be developed prior to initiation of the review.

Part IV. Abandoned Mine Lands

Specific Topics for Enhancement and Performance Reviews

Mutually agreed upon topics will be chosen and a work plan setting forth the scope and methodology of each evaluation will be developed that addresses each topic.

OSM-MLRP Obligations

A. The AFD shall:

1. Perform its oversight function (Enhancement and Performance Review activities) in cooperation with the MLRP in a fair and open manner.
2. Clearly communicate with the MLRP to discuss the program as needed, while striving to reduce the impact on the MLRP staff as much as possible.
3. Recognize excellence in MLRP's performance and report it in all performance related documentation.
4. Notify the MLRP immediately if any issue arises which could reflect negatively on performance.
5. Serve as the MLRP's primary source for technical assistance and Federal policy information relating to SMCRA implementation, and respond to all requests in an accurate and timely manner.
6. Trust the MLRP in fulfilling its responsibilities, and respect its authority as AFD strives to fulfill its support and oversight role.

B. The MLRP shall:

1. Freely communicate with the AFD concerning any issues relating to performance as they arise so that they can be resolved in a timely manner.
2. Cooperate with the AFD in its Enhancement and Performance Review activities (within the limits of practicability) as mutually agreed.
3. Provide program data in accordance with OSM Directive AML-22, and other information needed by any joint work team, or for OSM program monitoring.

Part V. Modification of this Agreement

This agreement may be modified at any time by mutual agreement of the involved parties. Modifications shall be in writing and shall be signed by both parties.

Part VI. Other

In addition to the National Review Topics covered under Part III of this agreement, other

Title V reviews may be conducted. A mutually agreed upon work plan will be developed for each additional review that is conducted.

The MLRP will provide all information required by OSM Directive REG-8 by July 15, 2006. The MLRP shall also provide information regarding State inspection, enforcement and Lands Unsuitable activities as required by tables 10-12 by July 15, 2006. (The tables are currently the same as in EY 2005. The MLRP will be advised of any changes to the tables as soon as possible after OSM Headquarters notifies the AFD of the changes.

The commitments contained in the meeting notes resulting from the January 31, 2006, meeting between the Mid-Continent Region and the MLRP are incorporated into this Performance Agreement. (Meeting notes are attached)

OSM will provide the MLRP with electronic copies of tables OSM developed during the time OSM was responsible for inspection and enforcement at active mines, and the MLRP will continue to maintain the following tables:

Bond Liability Releases by Bond Phase and Permit Number
Missouri Inspectable Units and Bond Status List
Inspection Frequency Table

The MLRP will provide OSM with copies of the following documents:

State inspection reports
State enforcement actions
Final bond release applications with accompanying maps
Final copies of approved permitting actions

Name	Date
Andrew R. Gilmore, Chief Director Alton Field Division	

Name	Date
Larry P. Coen, Staff Missouri Land Reclamation Program	